

**WAGANAKISING ODAWAK STATUTE 2013\_\_\_\_**  
**LTBB GAMING ENTERPRISE BOARD OF DIRECTORS**

**SECTION I. PURPOSE; AUTHORITY, FINDINGS**

- A.** Purpose. The purpose of this Statute is to establish a Gaming Enterprise Board of Directors to provide monitoring, oversight, and direction regarding the management of any Little Traverse Bay Bands of Odawa Indians (Little Traverse Bay Bands of Odawa Indians) Tribal Gaming Enterprises in order to maximize revenue potential for the Tribe.
- B.** Authority. The Tribal Council of the LTBB adopts this Statute in accordance with the Constitution of the LTBB that delegate to the Tribal Council the responsibility:
- 1.** Promote with special care the health, educational and economic interests of all the people, especially our children and elders, and shall protect them from social injustice and all forms of exploitation;
  - 2.** Regard the raising of the level of nutrition and the standard of living of our people, and the improvement of public health as among their primary duties;
  - 3.** Establish and maintain within the limits of their economic capacity and development, effective provision for securing the right to work, to education and assistance in cases of unemployment, old age, sickness and disablement, and in other cases of need;
  - 4.** To be the Legislative body and to make laws and appropriate funds in accordance with Article VII;
  - 5.** Establish committees, commissions, and boards, and approve appointments as presented by the Executive. The Tribal Council shall develop laws setting out qualifications for appointees and ensuring that the Tribal membership is given reasonable notification of available positions;

- 1
- 2       **6.**     To provide by statute for the management of any and all economic affairs and
- 3             enterprises of the LTBB that will further the economic development of the Tribe
- 4             or its members. Such statutes will delegate management responsibilities to tribally
- 5             chartered corporations or other subordinate Tribal entities, or where appropriate,
- 6             to the Executive Branch.
- 7
- 8       **7.**     Approve the creation or dissolution of Executive divisions or departments to
- 9             promote and protect the peace, health, safety, education, and general welfare,
- 10            including but not limited to cultural and natural resources, of the LTBB and its
- 11            members;
- 12

13   **C.**     Findings. The Tribal Council finds that:

14

- 15       **1.**     The Indian Gaming Regulatory Act identifies that a principal goal of federal
- 16             Indian policy is to promote Tribal economic development, tribal self-sufficiency,
- 17             and strong Tribal Governments, and has set forth limitations regarding the use of
- 18             gaming revenues by Indian Tribes, as well as imposing on Tribes the manner in
- 19             which they must operate their gaming enterprises; and
- 20
- 21       **2.**     The Gaming Enterprise(s) continue to grow and expand as the Tribe's primary
- 22             source of governmental revenue and jobs; and
- 23
- 24       **3.**     The nature of the Gaming Enterprise(s)' 24-hour year-round operations requires
- 25             constant monitoring, oversight, and direction; and
- 26
- 27       **4.**     Establishing of a Board of Directors for the Gaming Enterprise(s) to provide
- 28             appropriate monitoring, oversight, and direction regarding the management and
- 29             operation of any and all existing and future Gaming Enterprise(s) will serve the
- 30             best interests of the Tribe by maximizing revenue for the benefit of the Tribe,
- 31             reducing expenses where appropriate, and minimizing the potential for political
- 32             interference of business decision-making, all in accordance with the goals and
- 33             budgets of LTBB as established by Tribal Council.
- 34

1  
2 **SECTION II. ADOPTION; AMENDMENT; REPEAL; SEVERABILITY, TITLE**

3 **A.** Adoption. This Statute is adopted by Resolution #\_\_\_\_\_, which repeals all previous  
4 versions of the Board of Directors Act of 2005, Statute #05-800-03 effective thirty (30)  
5 days from the date of adoption, and replaces that Act with this Statute #10-800-03.  
6

7 **B.** Amendment. This Statute may be amended by the Tribal Council in accordance with the  
8 Constitution, the Administrative Procedures Act, and any other laws or rules set forth  
9 governing amendment of laws of the Little Traverse Bay Bands of Odawa Indians.  
10

11 **C.** Repeal. This Statute repeals and replaces Waganakising Odawak Statute 2010-021  
12 Gaming Delegation and Authority Statute and any previous Statutes including 2009-012,  
13 2001-12, and 2000-02.  
14

15 **D.** Severability. If any provision of this Statute or its application to any person or  
16 circumstance is held invalid, the invalidity does not affect other provisions or  
17 applications of this Statute which can be given effect without the invalid provision or  
18 application, and to this end the provisions of this Statute are severable.  
19

20 **E.** Title. This Statute shall be referred to as the WOS Gaming Enterprise(s) Board of  
21 Directors Statute #\_\_\_\_\_.  
22  
23

24 **SECTION III. DEFINITIONS**

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26 For purposes of this Statute, certain terms are defined in this Article. The word "shall" is  
27 always mandatory and not merely advisory.  
28

29 **A.** “*At-Large Member*” means a Member of the Gaming Enterprise Board who is enrolled  
30 members of LTBB.  
31

32 **B.** “*Capital Expenditures*” means the amount spent to add to the value of or extend the  
33 useful life of property, plant or equipment or to adapt it to a new or different use.  
34 Expenses that keep property, plant and equipment in an ordinarily efficient operating

condition and do not add to its value or appreciably add to its useful life are not capital expenditures.

C. “*Collective Bargaining Agreement*” means a contract between a Gaming Enterprise and a labor organization regarding wages, hours, terms or conditions of employment pursuant to the LTBB Fair Employment Act.

D. “*Contract*” means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable by law.

E. “*Daily Operational Expense*” means those expenses identified in the budget as necessary to operate and manage the Enterprise on a day-to-day basis, and include but are not limited to: payroll; insurance premiums; utilities; and payments made in accordance with the terms of an approved contract.

F. “*Elected Official*”, as used in this Statute, shall mean the LTBB Chairman, Vice-Chairman and Tribal Council.

G. “*Board*” shall mean appointed members of the LTBB Gaming Enterprise Board of Directors.

H. “*Gaming Enterprise(s)*”, as used in this Statute, shall mean the Odawa Casino Resort and any future facility at which gaming is authorized under Tribal, State, and/or Federal Law including, but not limited to, the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact(s), and the Tribal Gaming Statute. Gaming Enterprises are considered public employers, and are authorized to conduct activities including, but not limited to, the following:

1. Gaming activities authorized under the Tribal-State Gaming Compact.
2. Hotel and recreational activities.
3. Entertainment and conference activities.
4. Dining and banquet activities.

1  
2       **5.**     Activities reasonably related to the above.  
3

4       **6.**     Other activities as may be authorized from time to time by Resolution of the  
5             Tribal Council amending this Statute.  
6

7   **I.**     “*Gaming License Eligibility Standards*”, as used in this Statute, shall mean the standards  
8             to be applied when determining whether elected officials are eligible to hold and/or  
9             maintain a gaming license. "Gaming License Eligibility Standards" shall include  
10            application of all tribal and federal licensing eligibility requirements governing Primary  
11            Management Officials.  
12

13 **J.**     “Good Cause”, as used in this Statute as a basis for removal of a Member of the Board of  
14             Directors, shall have the meaning as described to it under Article V of this Statute.  
15

16 **K.**     “Official Action” shall mean an action taken by Motion approved by a majority of the  
17             Members of the Board of Directors present and voting at an official meeting.  
18

19 **L.**     “Official Capacity”. A Member of the Board of Directors is acting in his or her official  
20             capacity only when undertaking actions officially sanctioned and approved by a majority  
21             of Members of the Board of Directors present and voting at an official meeting.  
22

23 **M.**     “*Primary Management Official*” shall have the meaning attributed to it under the Indian  
24             Gaming Regulatory Act, as amended from time to time.  
25

26 **N.**     “*Public Employer*” means a Gaming Enterprise or other subordinate economic  
27             organization, department, commission, agency, or authority of the Tribe engaged in any  
28             Governmental Operations of the Tribe.  
29

30  
31 **SECTION IV.           BOARD OF DIRECTORS-CREATION, COMPOSITION,**  
32 **QUALIFICATIONS**  
33

1    **A.**     Board of Directors-Creation. The Tribal Council hereby creates and establishes the  
2            Board of Directors for the Gaming Enterprise(s), to act as an independent but subordinate  
3            organization of the Tribe in overseeing the Tribe's Gaming Enterprise(s), subject to the  
4            following conditions:

5  
6            **1.**     The Board of Directors and its Members shall be subject to the Constitution, laws,  
7                    and resolutions of the Tribe, including the legislative authority of the Tribal  
8                    Council to enact laws and resolutions and the executive authority of the Chairman  
9                    to carry out the laws and resolutions enacted by the Tribal Council. The Board  
10                  shall periodically meet and report to both the branches of government.

11  
12           **2.**     The Board of Directors and its Members shall be subject to all federal laws, or  
13                    any laws promulgated pursuant to federal law, including but not limited to the  
14                    Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming  
15                    Statute of the Tribe, Gaming Enterprise Board Statute and all applicable laws,  
16                    regulations, internal operating procedures and minimum internal control  
17                    standards.

18  
19           **3.**     The Members of the Board of Directors shall take an oath of office given by a  
20                    member of the Judiciary of the Tribe Tribal Court, and shall file a signed  
21                    confidentiality statement with the Legislative Office.

22  
23           **4.**     All of the Members will be independent of management and no member of  
24                    management will serve as a Member.

25  
26    **B.**     Composition. The Board of Directors shall be comprised of at least three (3) and no  
27            more than five (5) Board Members seated as follows: Chairperson; Vice-Chairperson and  
28            Directors.

29  
30           **1.**     The Chairman shall nominate Member of the Board to act as Chairperson and  
31                    appointed by Tribal Council.

32  
33           **2.**     The remaining Officers of the Board shall be filled by a vote of the Board  
34                    Members duly seated on the Board of Directors.

1  
2       **3.**     The Tribal Council may elect to secure a bond and/or insurance covering  
3           activities of Members of the Board of Directors. All Members of the Board of  
4           Directors shall cooperate fully with the Tribe to secure bonding and/or insurance  
5           covering his or her activities as a Member of the Board of Directors.  
6

7       **4.**     The following individuals shall be prohibited from serving as a Member of the  
8           Board of Directors:  
9

10       **a.**     Any person who previously held a seat on the Board of Directors who was  
11           removed for good cause.  
12

13       **b.**     Any person previously disqualified from serving on the Board of  
14           Directors.  
15

16       **c.**     Any person sitting as a Commissioner on the LTBB Gaming Regulatory  
17           Commission or other Tribal Gaming Regulatory Agency.  
18

19       **d.**     Any person employed by any Gaming Enterprise, LTBB Gaming  
20           Regulatory Commission or other Tribal Gaming Regulatory Agency.  
21

22   **C.**     **Qualifications.** To serve on the Gaming Enterprise Board a person must meet the  
23           following criteria:  
24

25       **1.**     Minimum of five (5) years of business or financial experience.  
26

27       **2.**     Minimum of five (5) years in gaming management or hospitality management.  
28

29       **3.**     Emphasis will be given towards five (5) years of management experience in a  
30           gaming facility.  
31

32       **4.**     The appointee must meet the qualifications for licensing under the Tribe's  
33           Gaming Regulatory Ordinance.  
34

1       **5.**     No person can serve on the Gaming Enterprise Board who is employed by any  
2             LTBB Gaming Enterprises or gaming enterprises of any another federally  
3             recognized Indian Tribe, or any facility or enterprise conducting gaming.  
4

5       **6.**     No person can serve on the Gaming Enterprise Board, who has been convicted of  
6             a felon in Tribal, State, or Federal Court within ten (10) years of the date of the  
7             appointment.  
8  
9

## 10   **SECTION V.           REMOVAL**

11

12   **A.**     The Board of Directors shall have the power to remove a Board Member for good  
13             cause upon a majority vote of the Board.  
14

15   **B.**     Good cause, as used in this Statute as a basis for removal, means that a Member of the  
16             Board of Directors shall be removed for the following reasons by the Board of Directors:  
17

18   **C.**     Failure to attend four meetings of the Board of Directors, including special or emergency  
19             meetings, within a twelve month period.  
20

21   **D.**     Revocation of a professional license, permit or certification that reflects on the  
22             qualifications of the member to sit on the Board or reflects on the professional  
23             responsibilities and integrity of the member.  
24

25   **E.**     Conviction of a felony or conviction of a misdemeanor act that impinges on the  
26             professional responsibilities and integrity of the member.  
27

28   **F.**     Failure to carry out the fiscal obligations mandated by this Statute.  
29

30   **G.**     Removal Process. The following process for removal of a member of the Board of  
31             Directors shall be strictly adhered to:  
32

33       **1.**     Notification – Reasons for Removal. The member of the Board of Directors  
34             subject to removal shall receive written notification that sets forth, with



specificity, the reason(s) for removal. The Notification shall include, at a minimum, the conduct, incident, or action that is the basis for the removal and the date and place the conduct, incident or action occurred; any documents relevant to the conduct, incident, or action; and the names of witnesses or other individuals with information regarding the conduct, incident or action.

2. Notification - Hearing Date and Time. The Notification shall include the place, date and time of the meeting at which the Board Member may answer the charge for removal. Removal hearings shall only be heard in a closed session meeting; provided that the Board Member subject to removal may request a public hearing.
3. Filing of Notification. A copy of the Notification and any attachments shall be forwarded to the Executive and Legislative Office.
4. Witnesses; Documents. The Board Member who is the subject of a removal proceeding shall submit, no later than forty-eight (48) hours prior to the hearing date and time, a list of proposed witnesses that will be called and/or a copy of all documents that will be presented at the removal hearing. Witnesses, at the time of the hearing, shall swear an oath as to the truth and accuracy of their statements.
5. Majority Vote Required. A Board Member shall only be removed by majority vote.
6. Final Decision. A majority vote of the Board of Directors, or the Tribal Council in accordance with Section V (G)(8) below, to remove a Board Member shall be final and may not be appealed to the Tribal Court.
7. Return of Property. Any Board Member subject to removal shall immediately, upon receipt of notification of removal, return any property, including documents or records of any type that rightfully belongs in the possession of the Board of Directors.
8. Removal by Tribal Council. In the event the Board of Directors fails to bring a charge for removal against a Board Member for good cause under Section 5.02

1 above, the Tribal Council may remove the Board Member in accordance with the  
2 procedures identified in Section V (G)(3) above.  
3  
4

## 5 **SECTION VI. AUTOMATIC DISQUALIFICATION**

6

7 **A.** Automatic Disqualification - General. Automatic disqualifications are non-discretionary  
8 and must be strictly enforced by the Chairperson, or the Vice-Chairperson presiding in  
9 the Chairperson's absence.  
10

11 **B.** Grounds for Disqualification. A Board Member shall be automatically disqualified from  
12 serving on the Board of Directors when one of the following occurs:  
13

14 **1.** The Board Member no longer holds or is eligible to hold a valid gaming license  
15 issued by the Tribe's gaming regulatory agency; or  
16

17 **2.** The Board Member is no longer an enrolled member of LTBB; or  
18

19 **3.** The Board Member becomes an elected official during their term.  
20

21 **4.** Disqualification - Procedure. When a Board Member is subject to disqualification  
22 under Section 6.02 above, the Chairperson, or the Vice-Chairperson presiding in  
23 the Chairperson's absence, shall notify the Board Member in writing. The  
24 notification shall contain, at a minimum:  
25

26 **a.** The reason(s) for the disqualification; and  
27

28 **b.** Notice that the Board Member is disqualified effective immediately; and  
29

30 **c.** Notice that the disqualification is not appealable to any hearing body.  
31

32 **C.** Return of Property. Any Board Member disqualified from serving on the Board of  
33 Directors shall immediately return any property, including documents or records of any  
34 type that rightfully belongs in the possession of the Board of Directors.

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2  
3 **SECTION VII. NOTICE; POSTING REQUIRED; VACANCIES**  
4

- 5 **A.** Notification Required. The Board of Directors is required to notify the Chairman and  
6 Tribal Council, in writing, when a vacancy is created by conclusion of a term, removal by  
7 the Board or Tribal Council, disqualification, or resignation of a member.  
8
- 9 **B.** Posting. Notice of Vacancy for Applicants. The Chairman shall post for 30 days a notice  
10 that a vacancy on the Board of Directors exists, the preferred qualifications for the vacant  
11 position, the term of office for the vacant position, and the opening and closing dates of  
12 the application period. All applications received shall be forwarded to the Tribal Council  
13 with the nominations presented under Section 7.04 of this Statute. This Section shall not  
14 apply to appointments to the First Board of Directors appointed in accordance with this  
15 Statute.  
16
- 17 **C.** Vacancy. A vacancy exists upon removal by the Board of Directors or Tribal Council,  
18 automatic disqualification, resignation, expiration of term of office, or upon receipt of the  
19 notice of vacancy by the Chairman.  
20
- 21 **1.** Procedure for Filling Vacancies. The following procedures shall be adhered to  
22 when filling vacancies on the Board of Directors:  
23
- 24 **a.** The Board of Directors performs duties necessary to the activities of the  
25 Gaming Enterprise(s) such that it is important that vacancies be filled in an  
26 efficient and timely manner. The Chairman shall submit nominations for  
27 vacancies on the Board of Directors within 45 days of receipt of notice of  
28 a vacancy.  
29
- 30 **b.** With respect to vacancies existing on the date of adoption of this Statute,  
31 the Chairman shall submit nominations to Tribal Council for approval  
32 within seven (7) days after the date of adoption.  
33

1 c. If the Chairman is unable to nominate individuals to fill vacancies on the  
2 Board, he or she shall identify the reasons why vacancies cannot be filled  
3 within the timelines set forth in this section, identify all attempts made to  
4 nominate qualified persons, and identify with specificity what  
5 qualifications each applicant is lacking.  
6

7 d. If a vacancy occurs on the Board of Directors in one or more of the seats  
8 which requires a minimum qualification as set by Section 4.02 above, the  
9 remaining Members of the Board of Directors may continue to conduct  
10 business.  
11

12 e. A vacancy in a seat shall be filled for the remainder of that term.  
13

14 f. A vacancy in the Board of Directors' seat reserved for the Chairman due to  
15 removal, disqualification or resignation shall be filled by a Tribal Council  
16 Member in accordance with Section 4.02(a) (2) of this Statute.  
17  
18

## 19 **SECTION VIII. QUORUM; MEETINGS; MINUTES; COMPENSATION**

20

21 **A.** Quorum. A quorum of the Board of Directors shall consist of any three (3) Members of  
22 the Board of Directors. A quorum shall be required to conduct business.  
23

24 **B.** Meetings. The Board of Directors shall hold regularly scheduled meetings of a minimum  
25 of twice per month. The Board may convene special or emergency meetings as necessary.  
26

27 **1.** Requirement to Attend Meetings. All Board Members shall participate in all  
28 regularly scheduled meetings in order to be compensated. Board Members may  
29 participate in meetings by telephone or electronic device upon approval of the  
30 remaining Board Members, when conditions prohibit attending in person.  
31

32 **2.** Procedures. The Board of Directors shall be authorized to establish its own  
33 meeting procedures not inconsistent with this Statute; provided that the Board of  
34 Directors shall be held to act by Motion under the following circumstances:

- a. When approving contracts and agreements in accordance with Sections IX and XI; and
- b. When authorizing a waiver of the sovereign immunity of the Gaming Enterprise(s) in accordance with Section IX and X; and
- c. When approving and authorizing execution of Collective Bargaining Agreements in accordance with Section IX and X; and
- d. When authorizing expenditures in accordance with Section IX.

C. Minutes. The Board of Directors shall prepare minutes of all open and closed session meetings which shall describe with specificity all official actions taken by the Board, and shall memorialize all discussions related to those official actions. Copies of the Board of Directors' minutes shall be posted for acceptance to the record in a timely manner.

D. Compensation. Each Member of the Board of Directors shall be paid reasonable compensation as agreed upon by the Executive and Legislative branches, subject to the following limitations:

1. Compensation for Members of the Board of Directors shall not be diminished during any term of office.
2. Compensation shall be paid from the budget of the Enterprise(s).
3. Continued learning will be required of each Member and the expenses for costs, travel and per diem for this official business task will be provided or reimbursed upon receipt.

## SECTION IX. RESPONSIBILITIES AND DUTIES

A. Responsibilities. The Board of Directors shall be responsible for the following:

- 1  
2       **1.**     To ensure compliance with the laws and resolutions enacted by the Tribal  
3             Council, including any goals for the Gaming Enterprise(s) established by the  
4             Tribal Council; and  
5
- 6       **2.**     To ensure compliance with all applicable laws and regulations, including the  
7             Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming  
8             Statute of the Tribe, and all applicable laws, regulations, internal operating  
9             procedures, policies and minimum internal control standards; and  
10
- 11       **3.**     To account for and transfer, or to direct the accounting and transfer of, all  
12             revenues generated by the Gaming Enterprise(s), excluding authorized operating  
13             funds, on at least a 48-hour basis to an account or accounts authorized and  
14             established by the Tribal Council by law or resolution; provided that such  
15             transfers shall be made according to written procedures established by the Board  
16             of Directors which shall be subject to modification by the Tribal Council law or  
17             resolution; and,  
18
- 19       **4.**     To increase the number of Tribal Members employed by the Gaming  
20             Enterprise(s) in accordance with the Indian Preference Statute and Fair  
21             Employment Act; and,  
22
- 23       **5.**     To increase the number of Tribal Members employed by the Gaming  
24             Enterprise(s) in management level positions in accordance with the LTBB  
25             Preference Statute Fair Employment Act; and,  
26
- 27       **6.**     To maintain a consistent and regular attendance record; and,  
28
- 29       **7.**     To be held accountable, to the highest degree, for the accuracy and thoroughness  
30             of the records and reports of the Gaming Enterprise(s); and,  
31
- 32       **8.**     To be responsible for the successful overall direction and operation of all  
33             activities of the Gaming Enterprise(s) in accordance with the laws and resolutions  
34             enacted by the Tribal Council.

- 1
- 2           **9.**     Responsible for the stewardship of the Gaming Enterprise(s) in the public and is
- 3                     ultimately accountable for the planning and management of the affairs and
- 4                     business of them.
- 5

6   **B.**     General Duties. The Board of Directors shall:

7

- 8           **1.**     Create, develop, and implement an effective strategy of business organization for
- 9                     the Gaming Enterprise(s) including setting objectives for future growth and
- 10                    expansion in accordance with the Annual Operating Plan, Annual Budget and
- 11                    Marketing Plan approved by the Tribal Council; and,
- 12
- 13           **2.**     Ensure the quality of management activities and operations in all areas of the
- 14                     Gaming Enterprise(s); and,
- 15
- 16           **3.**     Have all duties and responsibilities customary for a Board of Directors of a
- 17                     gaming, restaurant, hotel, and entertainment enterprise, including responsibility
- 18                     for the overall operation of the Gaming Enterprise(s), subject to any limitations or
- 19                     prohibitions set forth in this Statute.
- 20

21   **C.**     Specific Duties.

22

- 23           **1.**     General Manager, Staff. The Board of Directors shall have the power to hire,
- 24                     employ and terminate a General Manager for the LTBB Gaming Enterprise(s) in
- 25                     accordance with the laws and resolutions of the Tribe. The Board of Directors
- 26                     shall enter into an employment contract with the General Manager; provided that
- 27                     such contract shall be subject to review by the LTBB Legal Department. The
- 28                     Board of Directors shall evaluate the performance of the General Manager on an
- 29                     annual basis or more frequently as needed. The Board of Directors shall have the
- 30                     power to terminate the employment of the General Manager in accordance with
- 31                     the by-laws adopted by the Board of Directors. The Board of Directors shall have
- 32                     the authority to hire, employ, evaluate and terminate an executive staff to carry
- 33                     out Board functions.
- 34

- 1           **2.**     Primary Management Official Employment. The General Manager shall have the  
2           power to employ Primary Management for the Gaming Enterprise(s) in  
3           accordance with the laws and resolutions of the Tribe. Any employment contract  
4           entered into in accordance with this Section shall be ratified by the Board of  
5           Directors. The Board of Directors shall be provided the evaluation reports  
6           regarding the performance of all Primary Management on an annual basis or more  
7           frequently as needed. The General Manager shall keep the Board informed of any  
8           matters concerning performance of Primary Management employees  
9
- 10          **3.**     Personnel Policies and Handbook. The Board of Directors shall have the power to  
11          approve and amend the Personnel Policies and Handbook for the Gaming  
12          Enterprise(s), subject to the overriding authority of the Tribal Council to alter  
13          such documents by law or resolution. The Board of Directors shall provide at least  
14          a 30-day advance notice to the Chairman and Tribal Council of all proposed  
15          amendments.  
16
- 17          **4.**     Grievance Procedures. Within thirty (30) days of the effective date of this Statute,  
18          the Board of Directors, in consultation with the General Manager, shall prepare a  
19          comprehensive Grievance Procedure Policy which clearly identifies what  
20          personnel actions may be grieved. At a minimum, the Policy shall create a Board  
21          of Review made up of Enterprise employees who shall be authorized to hear  
22          grievances and make binding decisions. Any grievances pending before the Board  
23          of Directors on the date this Statute goes into effect shall be stayed and held in  
24          abeyance until a Board of Review has been created. Employees within a  
25          bargaining unit represented by an exclusive bargaining representative on or after  
26          the effective date of this Statute shall be exempt from application of this  
27          Grievance Procedure Policy.  
28
- 29          **5.**     Collective Bargaining Agreements; Contracts. The Board of Directors is expressly  
30          delegated the authority to enter into Collective Bargaining Agreements for the  
31          Gaming Enterprise(s) on behalf of the Tribe in accordance with Article X of this  
32          Statute. Collective Bargaining Agreements shall only be approved by a duly  
33          authorized Resolution which shall be forwarded to the Executive and Legislative  
34          Office for filing with the Board's Report



1  
2       **6.**     Release of Financial Information. The Board of Directors is expressly delegated  
3             authority to release necessary financial information to support the Gaming  
4             Enterprise(s) Casino Resort's position(s) during any collective bargaining process.  
5             Financial information released shall be subject to the confidentiality provisions  
6             adopted by LTBB.

7  
8       **7.**     Contracts. The Board of Directors shall have the power to approve contracts up to  
9             and including \$500,000.00 without Tribal Council approval subject to those  
10            limitations identified in Article XI of this Statute.

11  
12       **8.**     Expenditures. The Board of Directors shall authorize all Gaming Enterprise  
13             capital expenditures, and shall authorize all other expenditures in excess of  
14             \$50,000.00, excluding budgeted daily operational expenses.

15  
16   **D.**     Additional Duties of Chairperson and Vice-Chairperson. In addition to all other duties of  
17             the Board of Directors contained in this Statute, the Chairperson, or in his or her absence  
18             the Vice-Chairperson, shall be responsible for carrying out the following additional  
19             duties:

20  
21       **1.**     Mandatory Reporting Requirements. Ensuring the accuracy and timely  
22             submission of all mandatory budgets and reports in accordance with the schedules  
23             set forth in Section XII of this Statute.

24  
25       **2.**     Mandatory Distributions. Ensuring the accuracy and timeliness of all mandatory  
26             distributions of gaming revenues in accordance with the schedules set forth in  
27             Section XIII of this Statute.

28  
29       **3.**     In the event that any mandatory distribution or reporting requirements are not met  
30             in accordance with the provisions of this Statute , then the Chairperson, or Vice  
31             Chairperson in his or her absence, shall submit to the Executive and Legislative  
32             Office a comprehensive Corrective Action Plan which, at a minimum:  
33

- 1           **a.**     Identifies with specificity the individual(s) responsible for the Gaming  
2                   Enterprise's failure to comply with the provisions of this Statute;  
3  
4           **b.**     Identifies with specificity any disciplinary action taken against the  
5                   responsible individual(s); and  
6  
7           **c.**     Identifies with specificity what action the Board has taken to avoid future  
8                   non-compliance with the provisions of this Statute; and  
9  
10          **d.**     A Corrective Action Plan submitted under this Section shall be delivered  
11                   to the Executive and Legislative Office within three (3) business days of  
12                   the date of default. The Tribal Council shall place the matter on the next  
13                   available Tribal Council closed session agenda for discussion.  
14

15  
16   **SECTION X.                   LIMITED AUTHORITY TO WAIVE SOVEREIGN IMMUNITY**  
17

- 18   **A.**     Limited Delegation of Authority - General. The Tribal Council expressly delegates its  
19                   authority to the Board of Directors to waive or limit the right of the Gaming Enterprise(s)  
20                   to be immune from suit in accordance with LTBB Law, subject to the limitations  
21                   contained in this Article.  
22  
23   **B.**     Authority. The Board of Directors shall have limited authority to waive the sovereign  
24                   immunity of the Gaming Enterprise(s) in accordance with the terms and limitations set  
25                   forth in this Article in the following circumstances:  
26  
27          **1.**     The Board of Directors shall have limited authority to execute Collective  
28                   Bargaining Agreements for the Gaming Enterprise(s) on behalf of the Tribe. To  
29                   the extent a Collective Bargaining Agreement provides for a waiver of the Tribe's  
30                   sovereign immunity, the Board is authorized to execute such a waiver, but only to  
31                   the extent that such a waiver is consistent with the waiver of sovereign immunity  
32                   provided by LTBB Law or any amendments thereto.  
33

2. The Board of Directors shall have the additional limited authority to waive the sovereign immunity of the Gaming Enterprise(s) only when contracting for essential daily operational needs.

C. Limitations to Waiver Authority. Any waiver of sovereign immunity shall be subject to the following limitations in order to be valid and enforceable:

1. A waiver of sovereign immunity authorized in accordance with Section 10.02(b) above shall be limited to claims against the Gaming Enterprise(s) and not the Tribe; and

2. The Board of Directors shall not have authority to waive the right of the Gaming Enterprise(s) to be immune from suit for damages; and

3. For purposes of this Statute only, "damages" do not include remedies or awards for wages or other "make whole" remedies that employees may be entitled to recover pursuant to a Collective Bargaining Agreement entered into pursuant to the LTBB Fair Employment Act.

D. Procedure. Only waivers of the sovereign immunity of the Gaming Enterprise(s) that strictly comply with the procedures set forth in this Section shall be valid and enforceable:

1. The Board of Directors shall only waive the sovereign immunity of the Gaming Enterprise(s) by duly authorized Resolution which contains the following information:

2. The precise waiver and any limitation(s) to the waiver as identified in the contract or Collective Bargaining Agreement; and

3. The forum and choice of law which will govern claims or disputes.

4. A copy of the authorizing Resolution shall be forwarded to the Executive and Legislative Office for filing with the Board's Report.

- 1
- 2 **E.** Non-Delegable Authority. The Tribal Council expressly reserves all other authority to
- 3 waive the sovereign immunity of the Tribe and the Gaming Enterprise(s) in accordance
- 4 with the LTBB Constitution.
- 5
- 6

7 **SECTION XI. LIMITATIONS TO AUTHORITY AND ACCESS**

8

- 9 **A.** Official Action Required. No Member of the Board of Directors shall be authorized to act
- 10 independently or in the absence of an official action taken by roll call vote.
- 11
- 12 **B.** Limitations on Access. The Board of Directors shall be authorized to access any areas of
- 13 a Gaming Enterprise upon proper notification to the General Manager.
- 14
- 15 **C.** Limitations on Contracting Authority. The Board of Directors shall not have the power to
- 16 enter into or approve any contracts for legal counselor or construction contracts, nor may
- 17 the Board enter into any form of contract or agreement or initiate negotiations with any
- 18 municipality, nation, Indian Tribe, state or political body, without the approval of the
- 19 Tribal Council. Contracts and agreements shall only be approved by a duly authorized
- 20 Resolution which shall be forwarded to the Executive and Legislative Office for filing
- 21 with the Board's Report.
- 22
- 23 **D.** Limitation on Authority to Terminate Employment. The Board of Directors shall have no
- 24 independent authority to intervene or intercede in any personnel termination of
- 25 employment. The Board shall retain authority related to employment of the General
- 26 Manager in accordance with Section 9.03(a) of this Statute and over the Primary
- 27 Management in the event of an absence of a General Manager.
- 28
- 29 **E.** Limitation on Authority to Obligate Funds. The Board of Directors shall have no
- 30 authority to obligate funds outside the parameters of the approved budget without prior
- 31 approval by the Tribal Council including, but not limited to, funding connected to any
- 32 bonus or profit sharing programs.
- 33
- 34

1 **SECTION XII. BUDGETS; REPORTING REQUIREMENTS; SCHEDULES -**  
2 **REQUIRED**

3 The operation of the Gaming Enterprise(s) is governed by the provisions contained within  
4 this Article. No deviation from approved plans and budgets shall occur unless approved by the  
5 Board of Directors and ratified by Tribal Council Resolution.  
6

7 **A.** Annual Budget. The Board of Directors shall prepare, or cause to be prepared a separate  
8 proposed Annual Budget for each Gaming Enterprise and present the annual budget to  
9 the Tribal Council and in accordance with the power of the Tribal Council to approve  
10 or amend the annual budget; provided, that the Annual Budget shall include at a  
11 minimum:  
12

13 **1.** Statements of revenue and expenses for three years:  
14

15 **a.** For the budget year  
16

17 **b.** Actual results for the prior year  
18

19 **c.** Actual results year to date plus budget for the current year  
20

21 **d.** The statement of revenue and expenses shall be presented:  
22

23 **i.** By quarter;  
24

25 **ii.** Summary statement of all departments and other operating  
26 segments  
27

28 **iii.** Detailed statements by department or other operating segment  
29

30 **iv.** Detailed statement of monthly revenue by category  
31

32 **e.** Schedule of budgeted depreciation & capital replacement reserves.  
33

- 1           **f.**     Detail of budgeted capital expenditures by month including justification  
2                     for each expenditure/project over \$100,000.  
3  
4           **g.**     Budget cash flow statement by month.  
5  
6           **h.**     Loan amortization schedule for the budget year.  
7  
8           **i.**     Loan covenant compliance calculation by month for the budget year.  
9  
10          **j.**     Schedule and discussion of risks and opportunities for the budget year.  
11          **k.**     Budgeted Board of Directors expenditures including but not limited to:  
12  
13               **i.**     Compensation  
14  
15               **ii.**    Expenses  
16  
17               **iii.**   Office space requirements  
18  
19               **iv.**   Staff costs  
20  
21               **v.**     Consulting fees  
22  
23               **vi.**   Professional fees  
24

25 **B.**     **Annual Marketing Report.** The annual marketing report shall report on the  
26     activities of the current fiscal year to date as well as for the upcoming fiscal year  
27     by month and shall include but not be limited to the following:  
28

- 29       **1.**     Executive summary  
30  
31       **2.**     Situation analysis  
32  
33       **3.**     Market analysis/target markets  
34

1           **4.**     Competitive analysis

2  
3           **5.**     Marketing strategies

4  
5           **6.**     Direct mail

6  
7           **7.**     Player development activities

8  
9           **8.**     Event profiles and pro-formas

10  
11          **9.**     Guest traffic and spend habits

12  
13   **C.**     Annual Human Resources Report. The human resources report shall report on the  
14             activities of the current fiscal year to date as well as for the upcoming fiscal year  
15             by month and shall include but not be limited to the following:

16  
17          **1.**     Head count schedule

18  
19          **2.**     Preference employment report

20  
21          **3.**     Hiring plans

22  
23          **4.**     Training schedule

24  
25          **5.**     Employee development plans

26  
27          **6.**     Proposed changes to employee benefits / plans

28  
29          **7.**     Compensation plans

30  
31          **8.**     Full disclosure of any bonus type plans

32  
33          **9.**     Status of Collective Bargaining Agreements and other union activities

1       **10.**    Termination report

2  
3    **D.**    Annual Operating Plan & Report. The operating plan shall report on the proposed  
4           activities for the upcoming fiscal year by month and shall include but not be  
5           limited to the following:

- 6  
7       **1.**    Operating goals for the enterprise
- 8  
9       **2.**    Operating goals for each department
- 10  
11      **3.**    Proposed changes in operations
- 12  
13      **4.**    Status of Collective Bargaining Agreements and other union activities
- 14  
15      **5.**    Schedule and discussion of risks and opportunities
- 16  
17      **6.**    Schedule for Submission of Annual Budgets and Reports. The annual budget and  
18           annual reports described above shall be submitted to the Executive and  
19           Legislative Office no later than September 1.

20  
21  
22    **SECTION XIII.       MONTHLY REPORTS**

23  
24       The Board of Directors shall prepare, or cause to be prepared, a written monthly report to  
25       be submitted to the Executive and Legislative Office. The monthly report shall include as  
26       attachments all Resolutions authorized by the Board during the reporting period, and shall  
27       summarize the status of all material aspects of the operation of each Gaming Enterprise. The  
28       monthly report shall include, at a minimum:

29  
30    **A.**    Statements of revenue and expenses that shall include:

- 31  
32       **1.**    Actual, budget and prior year results for the current month and year to date
- 33  
34       **2.**    Summary statement of all departments and other operating segments



3. Detailed statements by department or other operating segment
4. Detailed statement of revenue by category
5. Cash flow statement
6. Capital replacement reserve schedule
7. Three month forecast of revenues by category
8. Balance sheet
9. Current month
10. Prior month
11. Prior year end
12. Schedule of actual capital expenditures vs. budget for the current month and year to date
13. Schedule of forecast capital expenditures vs. budget for the next three months
14. Loan covenant compliance schedule
15. Management narrative of operations
16. Schedule and discussion of risks and opportunities for the next three months
17. Marketing Department Report
  - a. Impact of the past month's promotions

1           **b.**     Promotions scheduled for the next three months

2  
3           **c.**     Entertainment venue and conference center use schedule for the  
4                   next three months

5  
6       **18.**    Human Resources Report

7  
8           **a.**     Headcount schedule

9  
10          **b.**     Preference employment report

11  
12          **c.**     Summary of new hires

13  
14          **d.**     Headcount forecast for the next three months

15  
16          **e.**     Termination report

17  
18       **19.**    Status of Collective Bargaining Agreements and other union activities

19  
20   **B.**    Schedule for Submission of Monthly Reports. The monthly report shall be  
21           submitted no later than the 15th day following month end.

22  
23   **C.**    Applicable Accounting Standards. The Board of Directors shall ensure that all budgets  
24           and reporting requirements contained in this Statute comply with Generally Accepted  
25           Accounting Practices in the United States as applicable.

26  
27  
28   **SECTION XIII.       MANDATORY DISTRIBUTIONS**

29  
30           Mandatory Distributions. The Board of Directors shall be responsible for ensuring the  
31           timely payment of all distributions required by applicable Federal, State or Tribal laws,  
32           Resolutions, Regulations, Compacts, or Agreements including, but not limited to, the following:

- 1    **A.**    Distributions Required by Compact(s). Distributions mandated by any Compact between  
2            the Little Traverse Bay Bands of Odawa Indians and the State of Michigan shall be made  
3            in accordance with the terms of that Compact or any other Agreement entered into  
4            between the Tribe and the State.  
5  
6    **B.**    National Indian Gaming Commission Payments. All payments required to be made to the  
7            National Indian Gaming Commission, or any other payments mandated by the Indian  
8            Gaming Regulatory Act.  
9  
10   **C.**    Tribal Gross Gaming Tax. The Tribal Gross Gaming Tax shall be distributed monthly in  
11            arrears to the Tribe along with a certificate signed by an officer stating the amount of the  
12            tax and showing how such amount was computed. The distribution of the tax shall be  
13            made no later than twenty days after the end of each month and shall be based on  
14            percentages as set forth by Statute  
15  
16   **D.**    Net Gaming Revenue. Distributions of net gaming revenue to the Tribal Government  
17            shall be made monthly, no later than twenty days after the end of each month.  
18  
19

20   **SECTION XIV.        TERMS OF OFFICE**  
21

22        Terms of Office. Each Member of the Board of Directors appointed under the provisions  
23        of this Statute shall hold a term of office until reported as vacant by the Board.